
(2018) 08 UK CK 0046

In the Uttarakhand High Court

Case No : Writ Petition (SS) No. 2697 of 2018

Mukesh Chandra

APPELLANT

Vs

State of Uttarakhand & Others

RESPONDENT

Date of Decision : 08-08-2018

Acts Referred:

Citation : (2018) 08 UK CK 0046

Hon'ble Judges : SHARAD KUMAR SHARMA, J

Bench : Single Bench

Advocate : Tarun P.S. Takuli, T.S. Bisht, Neeti Rana, Rakesh Thapliyal

Final Decision : Disposed Of

Judgement

SHARAD SHARMA, J. (ORAL)

1. On a conclusion of the selection process for the post of Assistant Teacher L.T. Grade (English), the petitioner was granted appointment. As a

consequence of his selection based on the examination which was conducted on the basis of the advertisement issued by the respondents. Result was

declared the petitioner was asked to join in Kumaon region in Government Inter College, Mona, Tehsil Koshyakutoli, District Nainital. His case is that

he belongs to Garhwal region and in the process of selection he had opted for Garhwal region but, he was allotted Kumaon region hence, he has joined

this place. On the contrary the petitioner's case is that when he came across the advertisement which was published on the website on

30.06.2018 to the following effect (this advertisement has not been annexed with the Writ Petition but the copy of the same has been produced by the

learned counsel for the petitioner):

“e.My ifjorZu gsrq foâ??ksâ??k lwpuk

lacaf/kr foHkkx }kjk orZeku esa ifjâ??kn~ dks fjfDr;ka miyC/k dj;k;h x;h gS ftuds lkis{k esfjVokj vH;fFkZ;ksa dks fnukad 28 twu 2018 ls fnukad 30

twu 2018 ds e/; ifjâ??kn~ dk;kZy; esa vfHkys[k lR;kiu gsrq vkeaf=r fd;k x;k gSA iwoZ esa p;fur vH;fFkZ;ksa }kjk le;≤ ij e.My ifjorZu djus gsrq

ifjâ??kn~ esa izR;kosnu izLrqr fd;k gS vFkok ek0 mPp U;k;ky; uSuhrky esa fjV ;kfpdk;sa nk;j dh x;h gSaA ifjâ??kn~ }kjk orZeku esa miyC/k

fjfDr;ksa dks ifjâ??kn~ dh osclkbV www.ubter.in ij bl vkâ?k; ds lkFk viyksM fd;k tk jgk gS fd iwoZ esa ,y0Vh0 HkrhZ&2014 ds vUrxZr p;fur

Â¼4tks dk;ZHkkj xzg.k dj pqds gSaÂ½ vH;fFkZ;ksa dks lwfpr fd;k tkrk gS fd ;fn os orZeku esa miyC/k fjfDr;ksa ds lkis{k e.My ifjorZu ds bPNqd

gSa rks fnukad 27 twu 2018 dks izkr% 11 cts ifjâ??kn~ dk;kZy; esa mifLFkr gksdj izR;kosnu@fodYi izLrqr dj ldrs gSaA ,sls vH;fFkZ;kas dks

izR;kosnu ds lkFk ifjâ??kn~ }kjk dh x;h p;u laLrqfr ds lkis{k orZeku esa foHkkx esa dk;ZHkkj xzg.k djus laca/kh dksbZ Hkh izek.k i=@nLrkost

layXu djuk fuok;Z gksxkA vH;fFkZ;ksa dks izR;kosnu@fodYi i= izLrqr djus gsrq Lo;a mifLFkr gksuk vfuok;Z gksxk vU;Fkk izR;kosnu ij fopkj ugha

fd;k tk;sxA izR;kosnu dk izk:Ik ifjâ??kn~ dh osclkbV ij miyC/k gSAâ??

2. Petitioner acting on the said advertisement has submitted his application, opting for to be transferred to the Garhwal region from where he hails.

The case of the petitioner is that subsequently it has revealed to him that as a consequence of the transfer notice, which was opted for by the

petitioner in pursuance to the advertisement dated 30.06.2018, he would be placed as junior most in the Garhwal division, and hence, he submits that

he moved an application seeking to withdraw the application which has filed in pursuance to the advertisement dated 30.06.2018, but still the

respondent had proceeded to pass the order dated 16.07.2018 wherein his name has been included at serial no. 2 pertaining to the subject code

English, whereby he has been transferred to Garhwal region. Being aggrieved against the same since the petitioner is anticipating a likelihood of being

relieved from Kumaon division to enable him to join Garhwal division, and basis of his option he has preferred a representation before the Joint

Director (Education) on 31.07.2018 and the same is pending consideration.

3. The argument of the learned counsel for the petitioner is that he could not have perceive the effect of his application seeking transfer to the

Garhwal division earlier that it would likely to affect his seniority because

according to his argument there was no such decipher/condition made in the advertisement as issued on 31.06.2018. Which necessitated for him to file an application seeking withdrawing of his application for transfer to Garhwal division.

4. This Court feels that at this stage when the application submitted by the petitioner in pursuance to the advertisement was a voluntary act and which has already been acted upon resulting into passing of the order dated 16.07.2018 there happens to be no occasion to permit him to withdraw the application, which he has voluntarily submitted and that to in particular after the decision dated 16.07.2018. The purpose of the application no more subsists.

5. But, looking to the fact that while inviting the applications for transfer to Garhwal division in pursuance to the advertisement dated 30.06.2018, since it did not reflect that it would have an adverse effect on the seniority of the person applying. In that eventuality, this Court feels that this Writ Petition could be disposed of by directing the Joint Director (Education) before whom the petitioner has filed the representation, to take an appropriate decision on the said representation considering the fact as to what impact would such transfer have on the seniority of an employee seeking a transfer. The decision on the representation as submitted by the petitioner on 31.07.2018 would positively be taken within a period of two weeks from today.

Relieving and joint of petitioner in Garhwal region would abide by decision in the representation.

6. Subject to the above observation the Writ Petition stands disposed of. However, there would be no order as to costs.